727 divided among the Banyarwanda warriors, who had to remit part of it to the Mwami (iminyago).

The king then reassembled his council and announced the end of the war.

[107] SECTION VI. JUSTICE

CHAPTER I. PENAL LAW

685 ### 1. Theft (1) of Provisions and Small Livestock

1. Theft is called ubujura or ubgibyi. The word umujura designates the thief in general. The umushimusi is the cattle thief and the igisambo is the robber of provisions, tools, etc.

a) Thief Caught in the Act (flagrante delicto) (muchyuho).

Whoever found a thief in his rugo could, in the recent past, kill him with impunity, but if the victim of the theft did not succeed in giving the thief the unexpected mortal blow, and the antagonists got to fighting, the thief had to be brought before the [694] hill chief. Today the hill chief has the presumed culprit apprehended by some of his men, who bind him and lock him up until he is brought before the tribunal. However, the relatives or shebuja of the thief can offer a present (inchamugozi, lit., which cuts the cord) to the chief so that he may be unbound. At the tribunal they offer to pay the robbed man the ingurano (from kugura, to buy back), an indemnity which is not necessarily of the same nature as the object of the theft; for instance, hoes can be handed over for a basket of sorghum that has been stolen. The robbed man claims in addition the inchachyuho (2) for the violation of his

2. Lit., "the one (the cow) that cuts, delivers (the thief) for the break (into the rugo)."

685 property right; it usually consists of a hoe. [108] If the thief is poor, a rich man may indemnify the victim of the theft, but in exchange he requires [from the thief] payments in the form of work.

In the past, if no intervention was made in his favor, the thief became the slave of the robbed man (umugaramu, the one who is bought back) for a certain period of time. However, he was well treated by the master and could even, when liberated, become his client.

b) Thief Not Caught in the Act.

685 694 In this case the robbed man has a discreet investigation made by a person who will not arouse suspicion. As soon as the investigator has gathered some information, he notifies the victim of the theft. The latter, with the help of his relatives or friends, goes and takes back his property and even something more; or else he arrests the thief or notifies the chief who has the thief apprehended. The man who was robbed must furnish the chief with proof of the crime (igihanga, lit., the head). Even if the robbed man has been paid back, the thief must pay him the umunani, representing eight times the value of the theft. Until the payment of this indemnity is complete, the thief remains in chains and is even beaten, unless he gives the inchamugozi. In addition to the imunani [sic] he is required to pay the inchachyuho.

685 The highway robber (umwambuzi) is sentenced to corporal punishment and to return what he has taken.

If the Mututsi, by any remote chance, stole provisions or small livestock, he would be given the usual punishments, and an even worse penalty, banishment from Mututsi society, for this theft would degrade and return him to the rank of Bahutu.

The umugambanyi (informer, traitor) does not steal himself, but sends some abajura (thieves) to commit [109] the crime. The ichyitso is one who gives the thieves necessary information. The umugambanyi is deprived of his property and bound and beaten until he has paid the umunani [sic]; then he is driven from the hill, and his rugo destroyed or given to another man. The punishment of the ichyitso is the same except that he is not held to the payment of the umumani.

● 685 Whoever has received stolen goods (1) is punished like the

1. The receiver is not designated by a special word. To receive stolen goods is called guhishira, "to hide in favor of someone."

thief. Whoever has hidden a thief from the searchers but can prove he did not participate in the theft is merely bound and cudgeled without further punishment.

2. Theft of Heavy Cattle

Today, the robbed man who catches the robber in flagrante delicto is no longer allowed to kill him. Whether flagrante delicto or no, only the provincial tribunal is competent to deal with the affair. As concerns the punishments, there are several possibilities.

Whoever has taken possession of one or several heads of cattle must return what he has stolen. In addition he is required to present to the tribunal eight animals (umunani) among which the man who has been robbed can choose a y'ichyuho cow, because the thief has entered his boma without his permission. Finally, he must give the man he has robbed an inguramaboko cow (lit., which releases arms that are bound) in order to purchase his freedom.

If the thief has slaughtered or sold the cattle, he must bring the umunani so that the robbed man may chose as many animals as have been stolen. In addition, the thief is obliged to give a y'ichyuho and an inguramaboko cow. The man who has been robbed must give the tribunal proof of the theft (igihanga). If, for example, the thief has slaughtered an animal, [110] the victim of the theft must show the horns of the animal that has been killed.

If the thief does not own any other animals except those he has stolen, his family pays the ichyuho and the inguramaboko. If the family owns no cattle or refuses to give any, the thief's hill chief or shebuja pays for him, but then the thief must redeem himself by working for the chief who has intervened in his favor.

685 If no one agrees to pay for the thief, the latter is led before the Mwami who asks one of the notables who is present to redeem him, in consideration of which the thief discharges his debt by working for this chief.

The Mututsi who steals a head of cattle is sentenced to ordinary punishments. During Mwami Rwabugiri's time, the thief might even have been condemned to death.

The receiver of stolen cattle is punished like the thief; sometimes he may also be deprived of his entire herd.

The obligation provided by customary law to restore what is stolen and in addition to pay the y'ichyuho and the inguramaboko is intended not only to repair the damage done, but also to severely punish the delinquent in order to inspire a salutary fear in him.

In the past, a chief might frequently have raided entire herds. He could be sentenced by the Mwami to return what he had taken and in addition to give to the man he had robbed several heads of cattle. The thief was also sometimes dispossessed of all his property. Unfortunately if the thief was a relative or friend of the Mwami, the theft often remained unpunished.

Formerly, one who stole a cow belonging to the Mwami's inyambo herds was condemned to be impaled.

Similarly, a cattle thief caught for the third time lost not only all that he possessed but was often condemned to death.

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3. Fires

An incendiary (utwika) after being well beaten must restore the value of what he has destroyed; rugo, objects, provisions, etc. Otherwise he is dispossessed of his own rugo and all its contents for the benefit of the victim of the fire. If the fire is unintentional its author is only condemned to pay damages.

4. Blows and Wounds

683 If the blows administered result in wounds, the assaulter is condemned only to a fine (ichyiru), the amount of which varies with the rank of the victim. Thus an ordinary Muhutu messenger or an umugaragu of the Mwami may receive a whole herd. Usually if a

person who will pay more tribute or who pleases him for other reasons (No. 19, p. 469). As a rule, however, families live on a piece of land for generations and till the soil for their own benefit and in part for that of their feudal lord. Before the Batussi era, this land was probably for the most part the property of the Bahutu clans (see p. 104). The homesteads inhabited by the Batussi are usually set somewhat apart from those of the Bahutu, outside the confines of fields in the grazing land.

The inhabitants own their huts and, in addition, everything they keep inside the huts or carry on their person. Thus, men, women, and children may own property, and the following may be items of property: huts, planted trees, produce still standing in the field or harvested, cattle that have been raised, furniture, tools, clothing, weapons, ornaments, trade objects, etc.

Property violations, i.e., damage and theft (uwivi), are frequent, but if someone leaves his hut unguarded, a woven screen in front of the door opening is usually sufficient to keep away uninvited guests. Although the kraals are surrounded by strong fences and the paths between the fields are often lined with high euphorbia hedges (Plate 20), these have not been put up or grown as a protection against thieves but to pen and restrain the cattle. If a person steals something from [94] a homestead or produce from the fields, he is taken before the mutwale and is sentenced to severe corporal punishment unless he can pay a generous amount in damages of which the mutwale will appropriate one half (No. 4, p. 224).

The mutwale or in smaller districts the village chief is the judge who pronounces justice in all cases. Usually the Batwa take care of their legal disputes among themselves without appealing to their Murundi mutwale, but the Batussi and the Bahutu take every matter that cannot be settled by the family council before their mutwale. Usually the plaintiff brings several witnesses with him whenever possible, but at the same time he brings a present for the judge which is not without influence upon the verdict of the latter (No. 19, p. 472). In most cases the convicted person receives his corporal punishment from the family members of the plaintiff or from the bodyguard of the chief if he has one. Concerning the types of punishment, see p. 97.

642 may not be satisfied by equal retribution but avenge the loss
614 of one of their members by killing two or more members of the
628 opposite clan. In former times this created a permanent state
182 of war within the nation, no large-scale political community could develop, and the resistance of the Barundi against external aggression was extremely weakened. The same was true of Ruanda (No. 48, p. 238). It was only the strong monarchy of the Batussi which, in its own interest, put an end to this permanent civil guerrilla warfare. However, now the clans use the vendetta for the protection of their members under the cover of secrecy. The former open guerrilla warfare has turned into insidious murder against which even the most powerful Batussi mutwale is not secure if he is guilty of bloody acts of violence against some clan. The effect of this avenging popular justice and the manner in which it is regarded by the people are reminiscent of our Vehmgericht of medieval times, although they are both quite different in other respects.

[106] Chapter 8

Marriage, Birth, Death

1. Contracting Marriage, Wife, Children

582 In most cases the Barundi are married (kurongora) at quite an early age: the men as soon as they can pay the bride price; the girls often at the age of twelve or even younger if they are [589] nubile. It is very rare that a man voluntarily remains a bachelor. If someone marries late, the only reason is that he is unable to raise the bride price, i.e., the purchase price of a wife. Marriages are exogamous; there are no cases of marriage within 583 the same clan (see p. 100). Bride stealing is unknown as a 685 marriage custom. If, under exceptional circumstances, it does occur it is treated as a case of common theft (No. 19, p. 358). 595 Concubinage is practiced particularly in the case when the son of a mutwale or a chief has to wait for a girl of equal rank to

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13. Kajigiri, a Mututsi from the Gissaka country, was first bound. His executioners lifted him several times and dropped him on his head. He was finished off with club blows.

14. Lwamiheto was given numerous blows by club. He was released almost immediately and died three months later of the brutalities he had suffered, according to public opinion.

15. Kayonga and his son, after many vicissitudes, were slain with spear thrusts and thrown into the Ruboneye swamp.

Victims on Other Counts

1. Bigutu and Balikage, the latter a son of Bisango and chief of the Bgishaza provinces, were killed while the court was settled at Kamonyi, after having been accused of opposing the new regime. /483/

2. The great Mututsi /Batutsi/ chief Lutishereka, his sons, and some of his followers had their throats cut while the court sojourned at Mukingo. This was done at the instigation of Luhinankiko, who blamed that high dignitary for inciting one of Lwabugiri's sons to murder his friend Baryinyonza.

3. Serukenyinkware, from the Mututsi /Batutsi/ clan of the Bachumbi, was accused of the same crime. He was cut to pieces while the court was staying at Mwima.

4. Three employees of the court, at Nyanza, were caught killing a cow which they had stolen from the king. [685]

They were condemned to death by spearing, and they made it a point of honor not to utter the slightest cry of pain.

5. A young Mututsi, after being bound and beaten with rods all through the day, was dragged still alive by the feet, into the swamp, where he was finished off by the Batwa.

6. Two inhabitants of the village of Musumba (Nduga), named Lukesha and Lugingabahizi, had their hands and feet cut off for a crime of bewitchment. The two poor devils were held responsible because Lwibishenga, a brother of the queen mother, had almost lost his sight as a result of yaws. [683]

7. Two Bahutu were shot point blank in the palace courtyard for a crime of espionage.

5: Pagès--293 M-5 (ca. 1925) 1933 FO42 Rundi FO42

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Impalement of a cattle thief before European penetration.

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Bellows and apparatus of a primitive forge.

721 Declarations of war are not made, at least not in Mulera. If a military expedition is to be undertaken, everyone knows about it long beforehand. It is hard to keep a secret. The actual declaration of war is the sound of the antelope horn calling the warriors together.

729 Baumann (1) mentions that spades wrapped with leaves are

1. Baumann, O., Durch Massailand zur Nilquelle [Through the Land of the Masai to the Source of the Nile] (Berlin, 1894), p. 84.

a sign of peace.

[277] Chapter 13

Administration of Justice

671 Law. Ruanda has no codified laws. The administration of justice is the business of the government which takes into consideration long-established customs. This is the only kind of law one can speak of in Ruanda.

Criminal law is not developed here to such an extent that the various types of crimes must be atoned for with specific punishments. We can only indicate approximately the severity of individual punishment, since uncodified law leaves so much to the personal opinion of the judge.

628 178 The basis of justice within the clan is the institution of blood revenge. With the development of the state, this is gradually being pushed into the background, but in Ruanda the process is still in its initial stages. In Kissaka, on the other hand, it is said that before revenge is taken, the chief is notified, and he can forbid taking vengeance for a man killed for robbery.

682 685 Aside from murder, which in Ruanda proper is still punished with blood revenge, the theft of cows is very severely punished, in accordance with the role the cow has in the life of Ruanda.

684 685 Since people are constantly passing goods received from another person to their clients (bagaragu), affairs of indebtedness become so complicated that it is difficult to keep the whole matter straight. Since the Batutsi are primarily the ones who grant and collect, however, it is customary to speak of theft (kwiba) only in connection with the Bahutu. In the case of the Batutsi one speaks of plundering, of collecting (kuambura). Nevertheless, if a Mututsi steals from another Mututsi and cannot prove that he is merely collecting his own property, he is treated like a thief.

685 When a thief is caught, his arms are tied so that the elbows are as close together as possible, [278] which is very painful. He is kept waiting thus until his relatives ransom him. The amount they must pay for his release is, as a rule, double the value of the stolen article. Sometimes this is increased to five times the value. Half of this goes to the injured party, the other half to those who helped him catch the thief. This portion usually consists of beer (nzoga). Since the injured person frequently retrieves his goods with the help of the chief, the latter keeps the second half of the ransom. This always happens in the case of stolen cows, for example. These cases border on out-and-out brigandage and can only be tracked down with the help of the chiefs. If the ransom is not paid, the thief himself is punished. He can even be slain. If the thief belongs to a powerful clan, however, there is no rush to murder him, especially because of the fear blood revenge. If there is no fear of the thief's family, however, various punishments are given. Sometimes the criminal is tied to two posts and left to starve to death and to be consumed by birds of prey or even impaled. Ordinary thieves who have not stolen cows are not so severely punished. If the death penalty is to be administered, the criminal's arms are tied, and he is thrown into the water. Ordinarily it is enough to cut off the criminal's ears. This punishment is said to have been the favorite one of Musinga's father, the great Lwabugiri Kigeri. In former times this was not considered enough, and one hand was also cut off.

A captured Mututsi who is not ransomed by his family can allegedly be killed only with the consent of the mutware, who in this manner takes the responsibility upon himself. In fact, the Bahutu are reluctant to punish the Batutsi of southern Ruanda

685 except through the mediation of the chiefs. They try to pay
[867] them back by thievery. Parents try to teach their children not to steal by burning their fingers.

684 Crimes against established morals are also severely punished in Ruanda, although it is commonly maintained that these punishments are being mitigated. Formerly seduced girls of Kissaka, as well as their seducers had to pay with their lives. They were either thrown into the water or hanged from the roof of the hut above the burning hearth. At the present time the severest punishment is to banish the girl.

681 The official death penalty in Ruanda is to break the criminal's neck (kuhotora) or to impale him. In Lwabugiri's day, when the death penalty was more frequently administered, it is said that criminals were also thrown into the swamp with their arms and legs cut off. However, among the skulls collected by my men in Nyanza, in the swamp into which executed criminals were thrown, [279] there were some that showed traces of blows from a bush knife.

In the kuhotora type of execution, the head is put between two pieces of wood and twisted back with this leverage device.

The royal executioner, the Mutwa Muhenehene, is said to kill the king's victims with a spear.

The bodies of those executed in Nyanza are allegedly given to the king's dogs to devour.

The impaled criminal whom Dr. A. Römer had an opportunity to observe was tied between two bamboo sticks running the length of the body, one in front, the other behind. His hands were tied together in front. A stake three or four centimeters thick ran through his body from the perineum to the cranium, without injuring the neck externally. The corpse had no lower leg bones. It was already so decomposed that one could not tell whether these bones had been picked off by hyenas or chopped off by the executioner. The natives who were questioned were not in agreement about this. Dr. Kandt (1) gives the word kuvamba for impaling.

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1. Kandt, R., "an account of his travels and research in Ruanda in Mitteilungen aus den Deutschen Schutzgebieten 1901, p. 120.

691 debtor A owns something that is being used by C, a cow, for ex-
426 ample, then B can bring C a present and, with C's permission,
686 declare the object belonging to A as kugombeka. In this case A loses all rights to the object he has deposited with C until he has settled his debt, and the object is now regarded as B's property. If A is powerful, the kugombeka of his property is declared void. If he is not influential, this becomes a very profitable business. In view of the duration of the suits, C always has the prospect of being able to appropriate the thing that has been put in his charge or at least of using it without incurring obligation. But under the rules of kugombeka he is responsible to B for the object. If he gives it back to its original owner A, he must replace its value to B or [283] owe it to him, and this starts a second suit between B and C which is separate from that between A and B.

426 If the users of A's property refuse to accept kugombeka, the
686 creditor can only resort to kufatira.

Kufatira is the confiscation of part of the property of an individual whom one wishes to force to defray his debt or to meet his responsibilities. Kufatira is also used to force someone to appear at a trial. The use of force is conceded in the case of kufatira, but otherwise infringement of property rights and the use of violence are basically regarded as punishable offenses.

Kufatira can be used successfully only against weaker debtors. If the debtor is very weak, he can even be plundered and bound with a rope until his family takes mercy on him and ransoms him. If, however, the debtor is powerful, kufatira can have all the consequences of a lost war, and there is no recourse but to make one's concern the concern of stronger protectors.

685 In cases of theft, the procedure is considerably simpler, and the judge receives no presents.

695 Evidence. The testimony of witnesses is very important in court trials in Ruanda. The accused has the right to demand witnesses to prove his guilt, but he also has the right to eliminate the testimony of certain witnesses if he has convincing reasons. Such witnesses are, for example, relatives, blood brothers, and clients (bagaragu) of the accuser. The accuser is obliged to comply